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Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA AT FAIRBANKS**

ROBERT PROBERT and LORETTA E.

PROBERT, and others similarly situated,

Plaintiffs,

vs.

**FAMILY CENTERED SERVICES OF
ALASKA, INC. and DOES I to X**, (Managerial
Employees Jointly Liable)

Defendants.

Case No. 4:07-cv-00030-RRB

MOTION TO VACATE ORDER AT DOCKET 164
MOTION TO RECONSIDER ORDER AT DOCKET 164

On June 15, 2010 at Docket 129 page 2, the court ordered a Stay in this case saying “that the Motion to Stay Proceedings pending appeal at Docket 117 is granted”. This Order was requested and made at the insistence of Defendants and over the opposition of the Plaintiffs.

Probert, et. al. v. FCSA, et. al.
Motion to Vacate Order at Docket 164
Case No. 4:07-cv-00030-RRB
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Defendants filed a Motion to Dismiss all claims against Deborah Coxon at Docket 162 on November 29, 2010.

Upon filing the Motion on or about November 29, 2010, it either went unnoticed by Defendant's counsel and/or counsel paid little heed to it as he knew the proceedings were stayed. No Motion to Lift Stay of Proceedings was filed.

This matter is on appeal to the Ninth Circuit and was argued in late July and is ripe for decision. Currently the status of the case based upon a phone call to Ninth Circuit Court Clerk is pending decision. Rather than spend unnecessary time, effort, money and attorney, client and judicial resources on this matter at this time, the court should vacate its order pending Decision of the Ninth Circuit.

In the alternative, if the court does not vacate the order, the court should give Plaintiff's counsel adequate time to consider and oppose the motion. The Court should note that this may call into question to whether or not it might be necessary to depose Ms. Coxon, again raising all the questions concerning waste of attorney, client and judicial resources. In any event, the Court should vacate the Order because the case is stayed.

RESPECTFULLY SUBMITTED this 10th day of January, 2011, Fairbanks,
Alaska.

LAW OFFICES OF KENNETH L. COVELL
Attorney for the Plaintiffs

By:/s/ Kenneth L. Covell
KENNETH L. COVELL

ABA Bar No. 8611103

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been
Served electronically, via ECF, to the following party(s):

John Foster Wallace

Richard D. Monkman

Dated: 01/10/2011

By: /s/ Camille De Santiago
Camille De Santiago for Kenneth L. Covell